

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**AMANDA BOSARGE, individually and on
behalf of their minor children, et al.,**

Plaintiffs,

-against-

**DANIEL P. EDNEY, in his official capacity
as the State Health Officer, et al.,**

Defendants.

Civil Action No. 1:22-cv-00233-
HSO-BWR

**MOTION SEEKING DEADLINE BY WHICH TO FILE MOTION FOR ATTORNEYS’
FEES AND COSTS**

Plaintiffs, by and through counsel, move this Court to Order a deadline by which Plaintiffs may file their Motion for Attorneys’ Fees and Costs. Plaintiffs respectfully move the Court for the following:

1. Plaintiffs filed their Complaint on September 1, 2022 asking the Court to grant them “reasonable attorneys’ fees and costs under 42 U.S.C. § 1988 and any other applicable authority.” (Dkt. 1 at 40.)
2. Defendants’ respective answers acknowledged and addressed Plaintiffs’ request for attorneys’ fees and costs. (Dkt. 33 at 27; Dkt. 36 at 21.)
3. The Court acknowledged Plaintiffs’ intention to seek attorneys’ fees and costs on several occasions during the course of this litigation. (Dkt. 38 at 2; Dkt. 65 at 3; Dkt. 66 at 3; Dkt. 77 at 3.)

4. Therefore, the purpose of Fed. R. Civ. P. 54 – to put Defendants on notice of Plaintiffs’ intent to seek fees – has plainly been met.

5. The Court entered an Order granting Plaintiff’s Motion for Summary Judgment and Permanent Injunction on August 29, 2023. (Dkt. 83.)

6. Plaintiffs were the prevailing party in this action and are therefore entitled to file a motion for attorneys’ fees and costs.

7. Defendants claim that Plaintiffs only have 14 days pursuant to Fed. R. Civ. P. 54(b)(2)(B)(i) to file for attorney’s fees and oppose this motion.

8. However, Fed. R. Civ. 54(d)(2)(B) permits the Court discretion to order a deadline for a motion for attorneys’ fees and costs. (“*Timing and Contents of the Motion*. Unless a statute or **a court order provides otherwise...**”) (Emphasis added.)

9. “Because there is no jurisdictional time limit on the filing of a motion seeking [attorney’s] fees under 42 U.S.C. § 1988, a district court could, in its discretion, entertain [a] motion for attorney’s fees made well after the entry of the order or judgment.” *Wells v. City of Alexandria*, No. 01-1686, 2004 U.S. Dist. LEXIS 30917, at *15 (W.D. LA Sept. 17, 2004) (internal citations omitted).

10. Following the Order of the Court, Plaintiffs carefully and thoroughly compiled and reviewed their extensive time entries in order to research and reduce hourly rates to the appropriate rates for the jurisdiction and to delete or zero out any entries that could be construed as duplicative or otherwise objectionable to avoid any dispute and to act in good faith; Counsel sent Defendants Edney and the Attorney General their detailed fee request on September 14, 2023.

11. Defendants have been on notice that Plaintiffs are seeking attorneys’ fees since the case was filed. (Dkt. 1 at 40.) *See also* Fed. R. Civ. 54 Notes of Advisory Committee on Rules –

1993 amendments (“One purpose of this provision is to assure that the opposing party is informed of the claim before the time for appeal has elapsed.”).

12. Defendants will suffer no prejudice if the Court permits Plaintiffs to file their motion for fees and costs on September 21, 2023, 23 days from the entry of the Court’s Order and before the time for appeal has elapsed.¹

WHEREAS, Plaintiffs respectfully request the Court grant them up to and including September 21, 2023 to file their Motion for Attorneys’ Fees and Costs.

Dated: September 15, 2023

Respectfully submitted,

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¹ Defendants did not appeal the preliminary injunction and have not indicated that they will appeal the permanent injunction, which they agreed not to oppose before the Court entered it. *See generally* Fed. R. Civ. 54 Notes of Advisory Committee on Rules – 1993 amendments (“Prompt filing ... enables the court in appropriate circumstances to make its ruling on a fee request in time for any appellate review of a dispute over fees to proceed at the same time as review on the merits of the case”). This rationale does not apply here.

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